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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/536,972

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Ian Anderson

8000940 (LBT124US)

6290

7590
Levy & Grandinetti
P.O. Box 18385
Washington, DC 20036-8385

06/19/2009

EXAMINER

MCCALISTER, WILLIAM M

ART UNIT

PAPER NUMBER

3753

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/536,972	Applicant(s) ANDERSON ET AL.	
	Examiner WILLIAM MCCALISTER	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/19/2009 (amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-105 is/are pending in the application.
- 4a) Of the above claim(s) 28-104 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-27 and 105 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/19/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/19/2009 has been entered.

Claims 1-4 have been cancelled. Claims 28-104 have been withdrawn. Claims 5-27 and 105 are pending for immediate consideration.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 5-27 and 105 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambrechts (EP 0 389 191 A1) in view of Sonoco (GB 2 210 865 A) and Sieger (DE 39 22 779 A1)

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Regarding claims 5-8, 11-16 and 19, Lambrechts discloses a method of filling and dispensing beer from a bag (20) contained in and supported by a keg (10), the method comprising the steps of:

evacuating the keg of air located between the keg and the bag (see col. 5 lines 6-14);

filling the inflated bag with beer (col. 4 lines 25-32); and

applying a gas under pressure into the keg against the bag during beer dispensing to facilitate dispensing of beer from the bag (see col. 4 lines 36-55).

Lambrechts does not disclose the step of pre-inflating the bag with inert CO₂ to displace air from the bag, prior to filling the bag with beer. However, Sonoco teaches that to avoid the spoilage of beer, it was known in the art at the time of invention to pre-inflate such a bag with CO₂ (see written description p. 1 ¶ 2). To avoid spoilage of the beer held in Lambrechts' device, it would have obvious to one of ordinary skill in the art to pre-inflate Lambrechts' bag with CO₂, as taught by Sonoco.

Neither Lambrechts nor Sonoco discloses the step of venting the CO₂ from the bag during the step of filling the bag with beer. However, Sieger teaches that it was known in the art at the time of invention to vent gas from an inflated bag during the step of filling the inflated bag with a beverage (see FIG 2). To allow the full volume of Lambrechts' bag to be utilized for the storage of beer, it would have been obvious to

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one of ordinary skill in the art at the time of invention to vent the CO₂ from the bag during the step of filling the inflated bag with beer, as taught by Sieger.

Regarding claims 9, 10, 17 and 18, Sonoco teaches inflating the bag to a volume corresponding to that of the container, so that the bag is in contact with the inside walls of the container (see written description page 1 paragraph 2 – “It may then be inflated ... until it is in intimate contact with the casing”).

Regarding claims 20-24 and 27, Lambrechts discloses a method of filling an alcohol beverage into a bag contained in and supported by a beer keg having a valve system mounted with the bag and keg, the method comprising the step of:

filling the bag with beer through a second valve (generally 33; note that a valve is anything that controls the flow of fluid through a conduit).

Lambrechts does not disclose the step of inflating the bag with CO₂ prior to filling the bag with beer. Sonoco teaches that to avoid the spoilage of beer, it was known in the art at the time of invention to pre-inflate a similar bag with carbon dioxide using a second valve (16, which is also used to fill the bag with beer). To avoid spoilage of the beer held by Lambrechts' device, it would have obvious to one of ordinary skill in the art to pre-inflate Lambrechts' bag with CO₂ through the second valve, as taught by Sonoco.

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Lambrechts also discloses a first valve (generally 34) capable of exhausting gas from a space between the keg and the bag, but does not disclose the step of applying a vacuum thereto. However, it was common knowledge that positive pressure acting in one direction has the same effect as negative pressure acting in the opposite direction. Therefore, it would have been obvious to one of ordinary skill in the art to inflate Lambrechts' bag with CO₂ by attaching a vacuum to the first valve, for instance where the supply pressure of CO₂ is running low.

Lambrechts nor Sonoco discloses the step of venting CO₂ from the bag. However, Sieger teaches that it was known in the art at the time of invention to vent an inert gas through a third valve (10, which is separate from the valve used to supply beer) from an inflatable bag during the step of filling the inflated bag with a beverage (as shown at FIG 2). To allow the full volume of Lambrechts' bag to be utilized for the storage of beer, it would have been obvious to one of ordinary skill in the art at the time of invention to vent the CO₂ from Lambrechts' bag through a third valve, as taught by Sieger.

Regarding claims 25 and 26, Sonoco teaches inflating the bag to a volume corresponding to that of the container, so that the bag is in contact with the inside walls of the container (see written description page 1 paragraph 2 – “It may then be inflated ... until it is in intimate contact with the casing”).

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Regarding claim 105, Lambrechts discloses the step of evacuating the keg of air located between the keg and the bag to occur prior to inflating the bag with CO₂. (See col. 5 lines 5-9; the steps are cyclical.)

4. Claims 20-27 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Lambrechts in view of Sonoco, Sieger and Pitts (3,527,021).

Regarding claims 20-24 and 27, Lambrechts discloses a method of filling an alcohol beverage into a bag contained in and supported by a beer keg having a valve system mounted with the bag and keg, the method comprising the step of:

filling the bag with beer through a second valve (generally 33).

Lambrechts does not disclose the step of inflating the bag with CO₂ prior to filling the bag with beer. Sonoco teaches that to avoid the spoilage of beer, it was known in the art at the time of invention to pre-inflate a similar bag with carbon dioxide using a second valve (16, which is also used to fill the bag with beer). To avoid spoilage of the beer held by Lambrechts' device, it would have obvious to one of ordinary skill in the art to pre-inflate Lambrechts' bag with CO₂ through the second valve, as taught by Sonoco.

Lambrechts also discloses a first valve (34) capable of exhausting gas from a space between the keg and the bag, but does not disclose the step of applying a vacuum thereto. Pitts teaches that it was known to inflate a bag by creating a state of

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vacuum on the exterior thereof. It would have been obvious to one of ordinary skill in the art to inflate Lambrechts' bag with CO₂ by attaching a vacuum to the first valve, for instance where the supply pressure of CO₂ is running low.

Lambrechts nor Sonoco discloses the step of venting CO₂ from the bag. However, Sieger teaches that it was known in the art at the time of invention to vent a gas through a third valve (10, which is separate from the valve used to supply beer) from an inflatable bag during the step of filling the inflated bag with a beverage (as shown at FIG 2). To allow the full volume of Lambrechts' bag to be utilized for the storage of beer, it would have been obvious to one of ordinary skill in the art at the time of invention to vent the CO₂ from Lambrechts' bag through a third valve, as taught by Sieger.

Regarding claims 25 and 26, Sonoco teaches inflating the bag to a volume corresponding to that of the container, so that the bag is in contact with the inside walls of the container (see written description page 1 paragraph 2 – “It may then be inflated ... until it is in intimate contact with the casing”).

Response to Arguments

5. Applicants' arguments filed 3/19/2009 have been fully considered but they are not persuasive. Applicant argues that it would not have been obvious to fill the bag with carbon dioxide by creating a vacuum on the exterior of the bag, because the method

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disclosed by the immediate application does not use the negative pressure to inflate the bag with carbon dioxide (Remarks, pp. 9-10). In response, the fact that Applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

6. Applicant's arguments not addressed above have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM MCCALISTER whose telephone number is (571)270-1869. The examiner can normally be reached on Monday through Friday, 9-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WILLIAM MCCALISTER/
Examiner, Art Unit 3753

WM
6/9/2009
/Timothy L Maust/
for Gregory Huson, SPE of Art Unit 3751